

1 Kelly McCarthy Sutherland, Esq., #168222
2 LOMBARDO & GILLES, LLP
3 318 Cayuga Street
4 Salinas, California 93901
5 Telephone: 831.754.2444
6 Facsimile: 831.754.2011

7
8 Attorneys for Plaintiffs
9 ASA Farms, Inc. and Braga Ranch

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

10 ASA FARMS, INC., a California corporation and)
11 BRAGA RANCH,)

12 Plaintiffs,)

13 v.)

14 FRESH 'N HEALTHY, INC., a Delaware)
15 corporation, MARK WILLIAMS, an individual;)
16 JACK PARSON, an individual; STEVEN)
17 CINELLI, an individual; CHAD HAGEN, an)
18 individual, SANTOS MARTINEZ, an individual;)
19 DON BEAM, an individual; DARRYL)
20 NICHOLSON, an individual; RICHARD MAY,)
21 an individual; THOMAS COLOGNA, an)
22 individual; PRESTWICK PARTNERS, LLC, a)
23 California limited liability company; SOLSTICE)
24 VENTURE PARTNERS, LLC, a business entity)
25 form unknown; VFINANCE INVESTMENTS, a)
26 business entity form unknown; FMP)
27 VINEYARD, LLC, a New Mexico limited)
28 liability company; BUTTONWOOD OPTION,)
LLC, a business entity form unknown; DW, LLC,)
a business entity form unknown; M SOLAZZO)
TRUST 2002; P. SOLAZZO 1998; GIBBONS)
FAMILY TRUST; BIXLER TRUST;)
STEIGERWALD TRUST and CARTER TRUST;)
COMERICA BANK, and DOES 2 through 50,)
inclusive,)

25 Defendants.)

Case No. C08-00122JF

**AMENDMENT TO COMPLAINT TO
SUBSTITUTE TRUE NAME OF
"DOE" DEFENDANT**

1 Plaintiffs, ASA Farms, Inc., and Braga Ranch were ignorant of the true name of a
2 defendant and designated the defendant in the Complaint by the fictitious name of "DOE 1."
3 Plaintiffs have discovered the true name of this defendant to be, **Comerica Bank** and hereby
4 amends its Complaint by inserting this true name in the place of the fictitious name "DOE 1"
5 wherever it appears in the Complaint.

6 Dated: January 25, 2008

7 LOMBARDO & GILLES, LLP

8
9 By: Kelly McCarthy Sutherland
10 Kelly McCarthy Sutherland
11 Attorneys for Plaintiffs
12 ASA Farms, Inc., and Braga Ranch
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I am employed in the County of Monterey, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 318 Cayuga Street, Salinas, California 93901.

On the date set forth below, I caused the following document(s) entitled:

**AMENDMENT TO COMPLAINT TO SUBSTITUTE TRUE NAME OF "DOE"
DEFENDANT**

to be served on the party(ies) or its (their) attorney(s) of record in this action listed below by the following means:

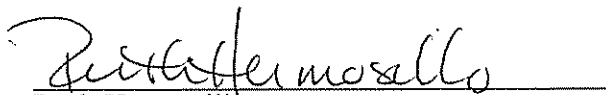
X	BY MAIL. By placing each envelope (with postage affixed thereto) in the U.S. Mail at the law offices of Lombardo & Gilles, 318 Cayuga Street, Salinas, California, addressed as shown below. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and in the ordinary course of business, correspondence would be deposited with the U.S. Postal Service the same day it was placed for collection and processing.
	BY HAND-DELIVERY. By causing a true copy thereof, enclosed in a sealed envelope, to be delivered by hand to the address(es) shown below.
	BY OVERNIGHT DELIVERY. By placing with an overnight mail company for delivery a true copy thereof, enclosed in a sealed envelope, with delivery charges to be billed to Lombardo & Gilles, addressed as shown below.
	BY FACSIMILE TRANSMISSION. By transmitting a true copy thereof by facsimile transmission from facsimile number (831) 754-2011 to the interest party(ies) or their attorney of record to said action at the facsimile number(s) shown below.

Stephen T. O'Neill, Esq.
Robert A. Franklin, Esq.
MURRAY & MURRAY
19400 Stevens Creek Blvd., #200
Cupertino, CA 95014-2548
650-852-9244 (fax)

Robert Edward Izmirian, Esq.
BUCHALTER NEMER
333 Market Street, 25th Floor
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 25, 2008, at Salinas, California.


Ruth Hermosillo